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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1958

No. 785

In the Matter of

DAVID E. HARTSHORN, *Petitioner*

v.

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY
*Respondent*

## PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

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## AUTHORITIES CITED

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There has been no case to test the time limits set by law on Jury Trial after seizure.

Statutes:


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Petitioner, David E. Hartshorn, prays that a writ of certiorari issue to review the Dismissal by the United State Court of Appeals for the District of Columbia on December 22, 1958 of an appeal in the above entitled case.

There was NO Opinion on the Dismissal by the District Court on August 19, 1958.

There was NO Opinion on the Dismissal of the Appeal to the Circuit Court of Appeals for the District of Columbia on December 22, 1958.

## JURISDICTION

The Dismissal by the Court of Appeals for the District of Columbia was entered on December 22, 1958 and there was no hearing.

The Jurisdiction of this Court is invoked under Title 28 U.S.C. Section 1254 (1) and on the Fifth Amendment to the Constitution Article V.

## QUESTIONS PRESENTED

1. May a quasi public or Public Administrative Agency violate Statutory provisions set up to protect private owners of Real Estate?

2. May such an Agency violate protective provisions set up by Federal Statutes in taking private lands for transfer to private ownership and profit, by third parties when there is no emergency?

3. May such an Agency wantonly violate time limits for legal procedure in such a manner as to preclude possibility of former owners getting anything like just compensation for their properties?

4. May such an Agency retain for their exclusive employment as many Appraisers for Real Estate as possible so that it would be nearly impossible for a private owner to get a fair hearing in condemnation proceedings?

5. May such an Agency compel abandonment of real estate for a period of months before any possibility of Jury action thus leaving the real estate open to unlimited vandalism?

6. May such an Agency take these and other steps to insure that the home of a private owner can never bring the former owner more than a small fraction of what it had been worth to the former owner?

7. Is seizure of land void where laws are avoided?

These and related questions are in the files of this proceeding.

## STATUTES INVOLVED

The Act of March 1, 1929, c 416, 45 Stat. 1415 et seq. (D.C. Code 1951 Title 16, Secs. 629 et seq. Also Sec. 11 line 7 et seq. that in land condemnation the—court shall forthwith set a date—not less than 10 days nor more than 20 days from the date of application for the trial of the issues—.

The Redevelopment Land Act of 1945, 60 Stat. 790, Secs. 5-701 et seq., requires a formal finding by the Commissioners of the District of Columbia of the condition of blight and unsanitary housing conditions. There was no such action.

## STATEMENT

The original proceeding in the District Court for the District of Columbia was an "Order for delivery of possession" against all owners and tenants in the area between the Mall and Maryland Avenue and between 9th Street and 12 Street Southwest. This taking was by the District of Columbia Redevelopment Land Agency (hereinafter called the Agency) under the District of Columbia Redevelopment Act of 1945 approved August 2, 1946 as amended 60 Stat. 790 (D.C. Code 1951, Secs. 5-701 et seq.) with the bare, unsupported, false suggestion that this fine residential area near the Mall was blighted and the taking was

alleged to be under the Act of March 1, 1929 as amended, c. 416, 45 Stat. 1415 et seq. (D.C. Code 1951, Title 16).

This taking of title was on June 20, 1958 without prior notice to the owners. All owners and tenants were ordered to leave by Sept. 17, 1958. The papers served on us promised a jury trial on just compensation. It was discovered that no jury trial was expected in 1958 and none is yet in view so far as I have been notified although the laws cited, call for a jury trial within 20 days (Title 16 Sec. 629 of the D. C. Code of 1951). It may be that nearly a year will elapse between seizure and the jury trial, promised on Compensation. This timing follows observed practice of leaving the properties available to vandals over a long period of time before any jury is organized. The heavy loss falls on the former owner.

Other comprehensive steps were taken to insure there would be a blocking of any prospects for just compensation.

It was discovered by the petitioner that as many appraisers as possible of real property in the District of Columbia were put under firm retainer to the Agency and barred from acting against the interests of the Agency. Material efforts had been made to get other appraisers under contract or under pressure. As for the petitioner—owner herein certain appraisers have sought to serve as appraisers on my fine property without notice of being under retainer to the Agency and no warning of dubious loyalty. The few appraisers, who refused to sign up, are hard to get.

Other devices have been employed by the Agency to avoid just compensation on any prospect that prior owners could collect more than a small fraction of the value of the property taken by the Agency.

The Decision in the case *State of Florida ex rel. Atlantic Coast Line Railroad Company* v. *State Board of Equalizers,* 30 A.L.R. 362 states;

> Officers must obey a law found upon the statute books until in a proper proceeding its constitutionality is passed on.

This ruling decision is directly in point here.

The Decision in *United States ex rel. Schumacher* v. *Marble,* 3 Mackey 32, shows that:

> Administrative authorities are creatures of Statute and have only such powers as the statute confers on them. Their powers must be exercised in accordance with the statute bestowing such powers and they can act only in the mode prescribed by statute.

There has been no decision to test the timing regulations on seizure for redevelopment.

## REASONS FOR GRANTING THE WRIT

1. It appears essential to have a comprehensive Decision on the rights of private owners in the Redevelopment activity; and

2. To have a clear definition of the limitations and duties of such an Agency for capture of property from private owners; and,

3. To have a definition of the limitations on transfer to other private owners for private profit. and,

4. To insure that home owners will not lose their life savings in the loss of their homes.

## CONCLUSION

For the above reasons this petition for a Writ of Certiorari should be granted.

Respectfully submitted,

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